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Ontario's Environmental Bill of Rights And You



E N V I R O N M E N T A L C O M M I S S I O N E R O F O N T A R I O



Ontario's
Environmental
Bill of Rights
And You

Correction Notice

- Page 2 Under "What makes the *EBR* unique?" second bullet, first sentence "investigations" — should be removed.
- Page 43 Under "Acts for Review" all references to November 15, 1994 — should read February 1, 1995.
- Page 43 Under "Acts for Review" the date for the *Planning Act* — should read April 1, 1998.



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Part 1: Introducing The Environmental Bill Of Rights

In February 1994, the *Environmental Bill of Rights, 1993 (EBR)* came into effect in Ontario. The *EBR* shows Ontario's commitment to safeguarding the environment.

The *EBR* recognizes that the provincial government has the primary responsibility for protecting, conserving and restoring the natural environment. It also recognizes the people of Ontario have the right to participate in government decision making and to hold the government accountable for those decisions. Therefore, the *EBR* represents a new era in environmental decision making — one of better public participation, citizen empowerment and greater accountability of decision makers.

What Makes The *EBR* Unique?

Exactly what makes the *EBR* unique? What's new for you and everyone else who lives in Ontario?

The *EBR* gives everyone new environmental rights and responsibilities. It means all of us — citizens, politicians, policy-makers, lawyers, businesses and activists — have new ways to participate in environmental matters. Here's what's different already:

- The *EBR* recognizes you can't contribute to, or participate in, environmental decision making if you don't know what decisions are being proposed. The *EBR* now requires certain government ministries to let you know about the environmental Acts, regulations and policies they're drafting, and which instruments they're approving. You have the right to review and comment on proposed laws and standards — before they are finalized.
See pages 9 - 10
- A cost-free, easy-to-use electronic computer bulletin board — the first of its kind in Canada — keeps you up to date on environmental proposals, decisions, investigations, court cases and other related information. You can get this information from your home or office computer, at your nearest participating library or community resource centre, or at the office of the Environmental Commissioner of Ontario (ECO).
See pages 7 - 9
- The *EBR* requires government ministries to develop Statements of Environmental Values (SEVs) to guide ministry staff when they make

environmentally significant decisions. You can use the SEV to see how each ministry is complying with the *EBR*.

See page 9

- The *EBR* now gives third parties the right to appeal certain ministry decisions.

See page 12 - 13

- The *EBR* now gives you a formal process for proposing that an existing environmental Act, regulation, instrument or policy should be changed or eliminated. You can also ask the government to consider establishing a new Act, regulation or policy.

See page 14 - 15

- If you have evidence that environmental Acts, regulations or instruments are being broken, now you can ask the government to investigate the alleged violation within specific time frames. In some cases, you can go to court if you're still not satisfied.

See pages 16 - 17

- The *EBR* gives you new rights to sue. Now you can sue a polluter for causing environmental harm to a public resource. Additionally, if you experience economic or personal loss because of a public nuisance that's causing environmental harm you can sue for personal damages.

See pages 18 - 20

- The *EBR* gives you added protection if you "blow the whistle" on the unsafe environmental conduct of your employer. You don't have to worry about losing your job if you report spills, unlawful emissions or other hazardous activities at your workplace.

See page 20 - 21

- An independent Environmental Commissioner now reviews and reports on government environmental decision making. The Environmental Commissioner reports to the Legislative Assembly of Ontario — not to any one political party or to a ministry — about how government ministries comply with the *EBR*.

See page 6 - 7

What's My Next Step?

This is your guide to the *Environmental Bill of Rights*. If you want to learn more, if you have a particular environmental concern, or if you want to use the tools in the *EBR*, read this guide. It's not meant to answer all your questions or as legal advice, but it will get you started on the right track. If you need more information after you read this guide, please contact the Environmental Commissioner of Ontario.

Part 2: What Do I Need To Know About The *EBR*?

The Principles Of The *EBR*

The *EBR* is based on the principle that our environment should be protected, conserved and restored. It supports this principle with new, practical ways for all Ontario residents to get involved in environmental decision making.

The *EBR* acknowledges that:

- The people of Ontario recognize the inherent value of the natural environment.
- The people of Ontario have a right to a healthful environment.
- The people of Ontario have as a common goal the protection, conservation and restoration of the natural environment for the benefit of present and future generations.
- While the government has the primary responsibility for achieving this goal, the people should have means to ensure that it is achieved in an effective, timely, open and fair manner.

The Goals Of The *EBR*

- Protect, conserve and restore the integrity of the environment.
- Provide environmental sustainability.
- Protect the right of Ontario citizens to a healthful environment.
- Prevent, reduce and eliminate the use, generation and release of pollutants that unreasonably threaten the integrity of the environment.
- Protect and conserve biological, ecological and genetic diversity.
- Protect and conserve natural resources, including plant life, animal life and ecological systems.
- Encourage the wise management of our natural resources, including plant life, animal life and ecological systems.
- Identify, protect and conserve ecologically sensitive areas or processes.
- Provide ways for Ontario residents to participate in environmental decision making.

- Increase government accountability for its environmental decision making.
- Increase access to the courts for Ontario residents who want to protect the environment.
- Improve protection for employees who take action against their employers for harming the environment.

Which Government Ministries Does The *EBR* Apply To?

The *EBR* currently applies to 14 Ontario government ministries (see Appendix B for the implementation schedule). The ministries to which the *EBR* applies may change from time to time, so please contact the ECO for the most up-to-date list of ministries subject to the *EBR*.

Who Can Participate In The *EBR*?

Any resident of Ontario can participate in the *EBR*. The *EBR* is for everyone. For example, you may be:

- A cottager concerned that a new marina might harm local wetland areas, fish habitat or water quality.
- An employee in a municipal sewage treatment plant whose employer won't listen to concerns about spills.
- A community group worried about emissions from a nearby refinery.
- A witness to night-time hazardous waste dumping in a rural area.
- A member of the community who believes logging roads are threatening sensitive fish spawning areas.
- A business person who believes new manufacturing or production processes make current environmental orders or regulations out of date and you think they should be rewritten.

What Are My Rights Under The *EBR*?

The *EBR* gives you the right to participate in the Ontario government's environmental decision making process. You can:

- Comment on proposed laws (including Acts, policies, regulations and instruments) that are environmentally significant.

- Appeal certain environmental decisions.
- Ask a ministry to review an Act, regulation, instrument or policy or consider establishing a new Act, regulation, instrument or policy.
- Ask a ministry to investigate if you think someone is harming the environment.
- Go to court if you think someone is harming the environment.
- Take action, without fear of reprisal, if you believe your employer is harming the environment.

What Is The Role Of The Environmental Commissioner?

The Environmental Commissioner is an independent officer of the Legislative Assembly and is appointed for a five-year term. Eva Ligeti is Ontario's first Environmental Commissioner. She reports to the Legislative Assembly — not to a political party or to a ministry. The Legislative Assembly is made up of elected government representatives and is responsible for passing laws.

Just like the Provincial Auditor inspects government spending every year, the Environmental Commissioner reviews and reports on the government's compliance with the *EBR*. To make sure the *EBR* is upheld, the Environmental Commissioner and ECO staff:

- Provide public education programs about the *EBR*.
- Provide assistance to citizens using the *EBR*.
- Review the use of *EBR* procedures to protect employees who experience reprisals for "whistle-blowing".
- Review the use of the Environmental Registry.
- Report annually to the Legislative Assembly on how ministries comply with the *EBR*.
- Review the use of discretion by ministers under the *EBR*.
- Review how ministries use public input to draft environmental Acts, regulations and policies, and how ministries investigate reported *EBR* violations.
- If requested, assist the ministries to develop thorough, consistent Statements of Environmental Values (SEVs).
- Monitor the use of appeals and court actions under the *EBR*.

Clearinghouse

One of the ECO's roles is to function as a mailbox and clearinghouse for Review and Investigation Applications.

For example, when you want a ministry to review an environmental decision, you send your completed Application For A Review to the ECO. The ECO's staff will assist you with any questions you may have when you're filling out your Application. Then when you've sent your completed Application to the ECO, it will be forwarded to the appropriate ministry.

Public Education and Assistance

You need to know about and understand the *EBR* to use your environmental rights. The ECO's staff are here to:

- Answer your questions about using the *EBR*.
- Give you a Review or Investigation Application.
- Receive your comments about how the *EBR* is working or suggestions about how to improve it.

Resource Centre

The ECO's office is home to a Resource Centre. The Centre is open to the public and you are welcome to use this facility to get on the Environmental Registry and to find out more about the *EBR* and related issues and legislation. Call us for Resource Centre hours at (416) 325-3377 or 1-800-701-6454.

Part 3: How Do I Participate?

If you're worried about an environmental problem, or you think one is about to happen, it's a good idea to ask some questions within your community before starting the *EBR* process. Find out if others share your concern. For example, there may be an environmental or citizen's group that's already pooling resources and creating an action plan. Or, the alleged polluter may already be under legal order to stop the violation.

If you do decide to take part in the *EBR* process, here's where to begin.

The Environmental Registry

What Is The Environmental Registry?

The Environmental Registry is the first application of Ontario's government-wide Bulletin Board Service (BBS). It's like a bulletin board on your computer screen.

The Environmental Registry is in English and French and it's free to everyone

within Ontario. It gives you the information you need to participate in environmental decision making, including:

- The text of the *Environmental Bill of Rights* and its regulations.
- General *EBR* information.
- The ministries' Statements of Environmental Values.
- Summaries of proposed Acts, regulations, policies and instruments.
- Notices of Appeals of instruments and Appeal decisions.
- Notices of court actions and final results.
- Application forms for Reviews and Investigations.

How Do I Get On The Environmental Registry?

You don't have to be a computer whiz to use the Environmental Registry. You can get online:

- At your nearest participating public or First Nations library, or community information centre.
- By modem from your own computer.
- Through a telnet-compatible computer network like WEB, Free-Net, Internet or the Ontario government's network — GONet.
- At the ECO's Resource Centre.

Getting Online At A Library Or Community Information Centre

Selected public and First Nations libraries, and community information centres have the Environmental Registry online. Staff are available to assist you. Contact the ECO for the participating library or community centre nearest you.

Getting Online By Modem

If your own computer has a modem and you live within the (416) area code, here's what to dial to get on the Environmental Registry:

- (tone dial) ATDT 3273000 or EBR3000
- (pulse dial) ATDP 3273000 or EBR3000

If your own computer has a modem and you live outside the (416) area code, here's what to dial to get on the Environmental Registry:

- (tone dial) ATDT 1,800,6679979
- (pulse dial) ATDP 1,800,6679979

Remember to dial 9 if you're calling from a business or government office. Once you've connected by modem, enter your User ID (your name, for example) and make up a password. You are now logged on to the Environmental Registry.



Getting Online Through The Internet Or Other Telnet-Compatible Networks

Log on to the Internet or another network as usual. At the system prompt (**govonca>**, for example) enter telnet **192.75.156.92**. Either press **Enter** or type **BBS** if you're asked for a username. You are now logged on to the Environmental Registry.

Getting Online At The ECO

You can access the Environmental Registry at the ECO's Resource Centre. Staff are available to assist you. Call the ECO's office for Resource Centre hours.

Statements Of Environmental Values

What Is A Statement Of Environmental Values?

Each of the ministries subject to the *EBR* has a Statement of Environmental Values (SEV). The SEV is a ministry statement that guides the minister and ministry staff when they make decisions that might affect the environment. It's also a new tool you can use to see how each ministry complies with the *EBR*.

Each SEV should explain:

- How the ministry will consider the environment when it makes environmentally significant decisions.
- How the ministry will apply the purposes of the *EBR* when it makes environmentally significant decisions.
- How the ministry will integrate its environmental values with social, economic and scientific considerations when it makes environmentally significant decisions.

How To Comment

The *EBR* gives you new ways to help shape proposed environmental Acts, regulations, instruments and policies to protect the environment. You now have the right to get involved when the Ontario government makes environmental decisions — right from the start.

The *EBR* allows you to comment when a ministry proposes a new Act, regulation or policy, or approves an instrument that may significantly affect the environment.

The Public Comment Process

1. The ministry posts an environmentally significant proposal on the Environmental Registry. The notice is posted for a minimum of 30 days. It summarizes the proposal, tells you how you can participate, when you have to get your comments in by and where to send them, and where you can get written information. See Appendix C for a sample Registry notice.
2. If you decide to participate, put your comments in writing. Remember to ask yourself these questions:
 - Do I have all the information I need?
 - Do I need expert advice?
 - Is my submission clear and thorough?
 - Did I include all relevant supporting material?
 - Have I contacted others who will support my submission?
3. Send your written comments to the ministry contact person listed at the end of the proposal within the time frame in the notice.

(The ministry may offer other ways for you to participate too, including oral presentations, public meetings or formal hearings. If you have a choice, pick the forum you're most comfortable with.)
4. After the ministry reviews all written comments, it posts its final decision on the Environmental Registry.
5. Review the decision to see if your comments were considered.

PUBLIC COMMENT PROCESS

1. Proposal posted on Environmental Registry
2. Prepare your comments
3. Send your comments to the ministry
4. Ministry posts decision on Environmental Registry
5. See how your comments were considered

How To Appeal Ministry Decisions On Instruments

In some situations, you can seek leave to appeal a ministry's decision on certain types of instruments like permits, licences and certificates of approval. Appeals are more formal than submitting written comments. They involve strict deadlines and detailed steps. Appeals are usually made in writing but may also include oral hearings. Because each appeal tribunal is different, you should contact the tribunal for information about its procedures before you begin.

There are two ways to appeal a ministry decision on an instrument.

- a. You can participate in an appeal that's already underway (the existing appeal process).
- b. You can start an appeal of the decision. This is called the third-party appeal process. You are a third party if you weren't part of the original decision but you have a right or an interest in the decision.

The Existing Appeal Process

The existing appeal process is one way to get involved in an appeal. Here's how it works.

1. An original party to the decision (like a company seeking approval to discharge chemicals into the environment) appeals the decision or applies to appeal under another Act, such as the *Environmental Protection Act*.
2. The Environmental Commissioner then places notice of the appeal on the Registry.
3. The relevant tribunal (for example, the Environmental Appeal Board) may allow any person with an interest in the appeal to participate. If you want to participate, the tribunal may decide to give you full-party status, or to participate in pre-hearing meetings or settlement negotiations.

THE EXISTING APPEAL PROCESS

1. Original party appeals
2. ECO places notice of appeal on the Environmental Registry
3. Tribunal may let you participate

The Third-Party Appeal Process

The third-party appeal process is another way to get involved in an appeal.

1. To apply for leave to appeal a ministry decision, you have to show:
 - a. That you have an “interest” in the decision (you commented on the original proposal, for example); and
 - b. That another person has a right under another Act to appeal that type of decision. For example, a waste management company may have a right under the *Environmental Protection Act* to appeal some terms and conditions of its certificate of approval to operate a waste management facility.
2. You must seek leave to appeal by the earlier of:
 - a. 15 days after the ministry gives notice to the public of the decision; or
 - b. 15 days after the Environmental Commissioner places a notice of an original party’s appeal of the decision on the Environmental Registry.
3. Send your application for leave to appeal to the ECO and to the appeal tribunal. For example, the Ministry of Environment and Energy’s appeal tribunal is the Environmental Appeal Board. Contact the ministry involved in your appeal or the ECO to find out what the appeal tribunal is in your specific case. The Environmental Commissioner then places notice of your leave to appeal on the Environmental Registry. In your application, make sure you include:
 - a. Proof that you have an interest in the decision and that you meet the other conditions required to appeal.
 - b. Details about why you think you pass the basic tests described in step 5 below.
4. Generally, the appeal tribunal will decide on your application within 30 days, unless there are unusual circumstances.
5. The tribunal considers these two questions in deciding whether to hear your appeal:
 - Is there good reason to believe that no reasonable person, having regard to the law and any relevant government policies, could have made the decision?
 - Could the decision being appealed result in harm to the environment?
6. If the tribunal finds that you **have not met** the requirements for leave to appeal and that your grounds for appeal **do not have** merit, it will

dismiss your application.

7. If the tribunal finds that you **have met** the requirements for leave to appeal and your grounds for appeal **do have** merit, it will make you a party to the appeal. The tribunal will usually put the ministry's decision on hold until the appeal is decided.
8. After hearing the appeal, the tribunal may:
 - Agree with the ministry's decision.
 - Overturn the decision.
 - Decide if new conditions should be added to the decision.

Please note that each tribunal has different decision making powers.

THIRD-PARTY APPEAL PROCESS

1. Show you have an "interest" or a "right"

2. Check timelines

3. Send your application to the appeal tribunal

4. Decision in 30 days in most cases

5. Appeal tribunal considers two questions

6. Appeal dismissed

or

7. You are made a party to the appeal

8. Tribunal hears the appeal

How To Apply For A Review

To take part in the *EBR*'s review process, two Ontario residents must co-apply for a Review. There are two kinds of Reviews.

- a. You can ask a minister to review existing Acts, regulations, instruments or policies if you think the environment isn't being protected. For example, you may have evidence that shows drinking water guidelines are too weak, or that the reserve between forest clear-cuts and waterways isn't preventing erosion and silting.
- b. You can also ask a minister to establish new Acts, regulations and policies to protect the environment.

The Review Process

1. Call or write the ECO for an Application For A Review. You can also get an Application from a participating library or download one from the Environmental Registry.
2. Complete your Application. Make sure you include:
 - a. Your names, addresses and proof that you are Ontario residents (your driver's licence numbers or Ontario Health Card numbers, for example).
 - b. The Act, regulation, instrument, or policy you want reviewed.
 - c. The reason why you want a Review.
 - d. A summary of evidence supporting your request.

If you need assistance filling out your Application, contact the ECO. Don't be afraid to include details — all personal information is kept confidential.

3. Make sure both you and your co-applicant sign and date the Application.
4. Send your completed Application to the ECO. You should keep copies for yourselves.
5. Within 10 days of receiving your completed Application form, the ECO will forward it to the ministry responsible. The ECO will let you know if the ministry responsible is not subject to the *EBR*.
6. Within 20 days of receiving your Application from the ECO, the ministry lets you know it has received your Application. The ministry will also notify anyone else who may be interested in the issues you raise in your Application.
7. Within 60 days of receiving your Application, the ministry lets you know if there will be a Review or not. To decide whether or not to conduct a

Review, the ministry may consider:

- a.** The ministry's Statement of Environmental Values.
 - b.** The potential for harm to the environment.
 - c.** Whether the matter is already subject to periodic review.
 - d.** Relevant social, economic, scientific or other evidence.
 - e.** Submissions from anyone with a direct interest in your Application.
 - f.** Resources needed to conduct the Review.
 - g.** How recently the Act, regulation, instrument or policy was proposed or approved.
 - h.** How much public participation there was when the decision was proposed.
- 8.** The ministry can deny your Application if:
- a.** The ministry approval was made within the past five years, and
 - b.** Public participation occurred and was consistent with the *EBR*.
- 9.** If your Application is approved, you'll be notified of the outcome within 30 days of completion of the Review. The ministry also lets you know what action will be taken as a result of the Review.

THE REVIEW PROCESS

- 1.** Contact the ECO for an Application
- 2.** Complete Application (with proof of Ontario residency)
- 3.** Double check co-applicant signatures
- 4.** Send Application to the ECO
- 5.** ECO forwards application to ministry
- 6.** Ministry acknowledges receipt
- 7.** Ministry decides whether to Review or not
- 8.** Ministry criteria
- 9.** Ministry notifies you of the result

How To Apply For An Investigation

To take part in the investigation process, two Ontario residents must co-apply to ask a ministry to investigate if they think someone is breaking an environmentally significant Act, regulation or instrument. For example, you may discover the owner of a car junkyard is illegally disposing of tires at night, or a construction company is filling in protected wetlands, or your employer is illegally releasing toxic air emissions at a rate higher than what's allowed in its certificate of approval.

Before you start, gather as much evidence as you can about the alleged violation. Note the location, time of day, people involved, equipment (for example, licence plate numbers, company names, videos or photographs of the activity), any physical evidence like dead fish, empty chemical barrels, and so on. If you witnessed the incident, write down what you saw.

If you think the situation is an emergency, call or visit your nearest Ministry of Environment and Energy office (see the blue pages in your telephone book). Or, if it is a spill onto land or into water, call the Spills Hotline at 1-800-268-6060.

If the situation is not an emergency, begin the investigation process under the *EBR*.

The Investigation Process

1. Call or write the ECO for an Application For An Investigation. You can also get an Application from a participating public library or download one from the Environmental Registry.
2. Complete your Application. Make sure you include:
 - a. Your names, addresses and proof that you are Ontario residents (for example, your driver's licence numbers or Ontario Health Card numbers).
 - b. A description of the alleged violation.
 - c. The names and addresses of the alleged violators.
 - d. A summary of your supporting evidence.
 - e. A list of witnesses if possible.
 - f. Details about previous contact you've had with the ministry or the ECO about the alleged violation.

Don't be afraid to include details — all personal information is kept confidential. However, if the ministry decides to prosecute, you may have to testify in court.

3. Take your completed Application to a lawyer, notary public or Commissioner of Oaths. They'll help you complete an affidavit swearing your allegations are true. Make sure both you and your co-applicant provide affidavits.

4. Send your Application — along with your affidavits — to the ECO. You should keep copies for yourselves.
5. Within 10 days of receiving your Application, the ECO sends your Application to the ministry responsible. The ECO will let you know if the ministry responsible is not subject to the *EBR*.
6. Within 20 days of receiving your Application from the ECO, the ministry lets you know it has received your Application.
7. Within 60 days of receiving your Application, the ministry should let you know if it will investigate or not, and why. The ministry does not have to investigate if:
 - a. Your application is frivolous or vexatious.
 - b. The alleged violation isn't serious enough to warrant an Investigation.
 - c. The alleged violation isn't likely to harm the environment.
 - d. An Investigation is already underway or has already been done.
8. If the ministry decides to investigate, the ministry either completes the investigation within 120 days of receiving your Application or lets you know how long the investigation will take.
9. After the investigation is complete, the ministry has 30 days to let you know the outcome and any actions taken or to be taken.

THE INVESTIGATION PROCESS

1. Contact the ECO for an Application
2. Complete Application
3. Swear affidavits
4. Send your application to the ECO
5. ECO forwards Application to ministry
6. Ministry acknowledges receipt
7. Ministry decides whether to investigate or not
8. Ministry investigates
9. Ministry has 30 days to report

How To Sue To Protect A Public Resource

The *EBR* gives you the right to sue someone or a company who is breaking — or is about to break — an environmental Act, regulation or instrument and is harming, or will harm a public resource. Because you can only go to court to protect a public resource, you're not entitled to personal awards or compensation for damages.

What Do I Need To Know Before I Sue?

You should carefully consider the pros and cons of going to trial. Even if your case is strong, court actions can be expensive, time-consuming and stressful. Make sure you've considered all your options before you decide to sue. Here's some things you should consider first:

- Find out if other community, environmental or employee health and safety groups share your concern.
- If you're worried about a general activity, like forest clear-cutting or development in wetlands, check if there are corrective laws, regulations or policies being drafted. If there are, they may take effect before your *EBR* court action concludes.
- Find out whether you can achieve the same legal result through court action under a different law. Remember, the *EBR* only allows you to sue on behalf of a public resource. If you've experienced personal damage to your health or property, you may have a stronger court case under other laws and be entitled to compensation. This may force the polluter to respond faster.
- Talk to a lawyer who specializes in environmental law, or to experts who represent environmental or workplace safety groups.
- Find out if you're acting within the timelines set out in the *EBR*. These provisions can be complicated, so it's a good idea to discuss them with a lawyer before you start your legal action.

You must ask for an investigation before you can bring a lawsuit through the *EBR* (unless there's a serious risk of harm to a public resource). If you've asked for an Investigation, you can only sue if:

1.
 - a. The ministry didn't give notice of a decision not to investigate within a reasonable time.
 - b. The ministry didn't complete the Investigation within a reasonable time.
 - c. The ministry didn't give notice of the outcome of an Investigation within a reasonable time. **Or**
2. The ministry's response to your Application For An Investigation was unreasonable.

If you think odor, noise or dust from a farm is harming the environment, you must apply to the Farm Practices Protection Board. You cannot take legal

action until the Board has ruled on your application (unless there's a serious risk of harm to a public resource).

The Court Process

- 1.** If you decide to sue, contact a lawyer and start your lawsuit. Notify the ECO in writing. The ECO will post your action on the Environmental Registry.
- 2.** Have your lawyer serve notice on the defendant (the person or company you're suing). Within the next 10 days the Attorney General of Ontario must also be formally notified.
- 3.** Within 30 days of serving all official papers to the court, ask the court if additional notice of your action is required.
- 4.** Now you're ready to go to trial. It's up to you to prove your case. If your case is strong, the defendant may offer you a settlement proposal to stop or change their environmentally harmful behavior. If you agree to this, you can have the defendant's settlement proposal entered as a court judgement. This way, you save the expense and stress of a full trial.
- 5.** If you go to a full trial, here's what could happen:
 - a.** If the court finds the defendant made their best effort to comply with the law, and didn't break any Acts or regulations, the court may dismiss your case. If that happens, the court may order you to pay the defendant's legal costs.
 - b.** If the court finds the defendant broke an environmental law, it may grant an order to stop the polluting practice, approve a settlement agreement between you and the defendant, order a cleanup and restoration plan, or make any other order it judges appropriate. If the court rules in your favor, it may order the defendant to pay your legal costs.
- 6.** The ECO posts the court's ruling on the Environmental Registry.

THE COURT PROCESS

- 1.** Notify the ECO
- 2.** Serve notices
- 3.** Additional notice
- 4.** Pre-trial options
- 5.** Trial
- 6.** Decision

How To Sue Over A Public Nuisance

Generally, a public nuisance is an unreasonable interference with your use and enjoyment of your land. Before the *EBR* became law, your ability to sue if a public nuisance was harming the environment was limited.

Now anyone who experiences direct economic or personal loss because of a public nuisance causing environmental harm may sue for damages or other personal remedies. (In some cases, farmers are protected against public nuisance lawsuits under the *Farm Practices Protection Act*).

For details about how to sue over a public nuisance, consult a lawyer.

How To Get Protection From Employer Reprisals

Industrial, commercial and resource extraction companies in Ontario use, and sometimes create, toxic or hazardous materials. If you work at one of these companies you may know about, have witnessed or even been forced to participate in spills, leaks, unsafe practices or violations of environmental laws. For example, you could be:

- A truck driver who is told to fill out false reports and “midnight dump” a tankful of photographic processing chemicals in a rural area.
- A dry cleaning store attendant who discovers your employer is using a duct system that vents dangerous fumes directly into the atmosphere.
- An electric utility employee who discovers that pollution control equipment to reduce sulphuric acid emissions is not working.
- A municipal staff planner who has a confidential report showing that a council-approved subdivision may destroy a wetland.

Now you don’t have to choose between your civic duty and your job. The *EBR* provides new protection for employees who may have been dismissed, penalized, disciplined, coerced, intimidated or harassed for reporting environmental violations in the past. These employer actions are violations of the *EBR*.

Employees have the same rights as all Ontarians to use the *EBR*. You can formally comment on a proposal, seek leave to appeal a decision, or apply for a Review or Investigation. You are protected from retaliation by your employer if you participate in any public process under the *EBR*.

You are also protected if you disobey your employer but comply with laws

and regulations subject to the *EBR*. For example, you may turn off a valve to stop an illegal discharge of effluent directly into a river.

However, don't take any of these steps lightly. Talk to your co-workers, shop steward or a lawyer first unless the situation is an emergency.

If you do participate in the *EBR* and you believe your employer has taken reprisals against you, here's what to do.

The Employer Reprisal Protection Process

- 1.** Put your evidence in writing (including location, date, witnesses and details of your action) and file your complaint with the Ontario Labour Relations Board (OLRB).
- 2.** If there are grounds to support your complaint, a Labour Relations Officer will look into the situation and try to settle the matter with you and your employer.
- 3.** If a settlement isn't possible, the OLRB may review your complaint directly. Your employer must prove to the Board that no reprisals were taken against you.
- 4.** If the Board finds that you did experience reprisals, it may order your employer to:
 - a.** Stop or fix the action you've complained about.
 - b.** Reinstatement you.
 - c.** Compensate you for lost earnings.
- 5.** If your employer does not follow the Board's order or the settlement agreement, you must let the Board know and its decision will be filed with the Ontario Court. The decision can then be enforced as if it were a court order.

THE EMPLOYER REPRISAL PROTECTION PROCESS

- 1.** File complaint with the OLRB
- 2.** Labour Relations Officer investigates
- 3.** If no settlement, OLRB reviews complaint
- 4.** Settlement
- 5.** Enforcement

For more details about protection against employer reprisals under the *EBR*, contact the ECO or:

The Ontario Labour Relations Board
400 University Avenue, 4F
Toronto, ON
M7A 1V4

Phone: (416) 326-7500

Fax: (416) 326-7531

How To Get More Information

If you need more information about the *Environmental Bill of Rights* or want an Application for Review or Investigation, contact the Environmental Commissioner of Ontario.

Environmental Commissioner of Ontario
1075 Bay Street, Suite 605
Toronto, ON
M5S 2B1

Phone: (416) 325-3377

Toll Free: 1-800-701-6454

Fax: (416) 325-3370

Appendix A: Definitions

The *EBR* provides these definitions:

Air

Open air not enclosed in a building, structure, machine, chimney, stack or flue.

Environment

The air, land, water, plant life, animal life and ecological systems of Ontario.

Harm

Any contamination or degradation and includes harm caused by the release of any solid, liquid, gas, odor, heat, sound, vibration or radiation.

Instrument

Any document of legal effect issued under an Act, including a permit, licence, approval, authorization, direction or order. Instruments do not include regulations. Regulations under the *EBR* may also deem a document or class of documents to be instruments.

Land

Surface land not enclosed in a building, land covered by water (including wetland) and all subsoil.

Policy

A program, plan or objective and includes guidelines or criteria for making decisions to issue, amend or revoke an Act, regulation or instrument.

Prescribed

Anything prescribed by the regulations of the *EBR*.

Registry

The Environmental Registry.

Regulation

Has the same meaning as in the *Regulations Act*, (except where a Regulation under the *EBR* has deemed a document or class of documents to be a Regulation).

Water

Surface and ground water.

Appendix B: EBR Implementation Schedule

	<i>Ministry Statement Of Environmental Values</i>	<i>Proposals For Policies And Acts</i>
Environment and Energy	Nov. 15/94	Aug. 15/94
Natural Resources	Nov. 15/94	April 1/95
Northern Development and Mines	Nov. 15/94	April 1/95
Consumer and Commercial Relations	Nov. 15/94	April 1/95
Municipal Affairs	Nov. 15/94	April 1/95
Agriculture, Food and Rural Affairs	Nov. 15/94	April 1/95
Culture, Tourism and Recreation	Nov. 15/94	April 1/95
Economic Development and Trade	Nov. 15/94	April 1/95
Finance	Nov. 15/94	April 1/95
Health	Nov. 15/94	April 1/95
Housing	Nov. 15/94	April 1/95
Labour	Nov. 15/94	April 1/95
Transportation	Nov. 15/94	April 1/95
Management Board of Cabinet	Nov. 15/94	April 1/95

<i>Proposals For Regulations And Instruments</i>	<i>Application For Review</i>	<i>Application For Investigation</i>	<i>Court Action</i>
Nov. 15/94	Feb. 1/95	Aug. 15/94	Aug. 15/94
April 1/96	April 1/96	April 1/96	April 1/96
April 1/96	April 1/96	April 1/96	April 1/96
April 1/96	April 1/96	April 1/96	April 1/96
April 1/98	April 1/98	NA	NA
NA	April 1/96	NA	NA
NA	NA	NA	NA
NA	NA	NA	NA
NA	NA	NA	NA
NA	NA	NA	NA
NA	NA	NA	NA
NA	NA	NA	NA
NA	NA	NA	NA
NA	NA	NA	NA

May 1995

Appendix C: Sample Registry Notice

EBR Registry Number: IA5E0484.P

Ministry: Ministry of Environment and Energy

Type: Instrument: EPA s. 9

Approval for discharge into the natural environment other than water (i.e. air emissions).

Ministry Instrument Reference:	8104095	111
Status:	Proposal	
Proposal Date:	03/07/95	
Proponent:	ROCKWELL INTL OF CANADA LTD.	
Proponent Location:	PO Box 2500, NOP 2L0	
Location of Activity (City/Town/Municipality):	TILBURY TOWN	
County/District/Region:	KENT	
Other Activity Location Identifiers:	PT. LOT 22/CON.3, RP# 791, TILBURY TOWN	

Description:

One (1) exhaust fan to ventilate process oil mist and smoke from the machining and heat treating operation, discharging to the atmosphere.

Other Pertinent Information/Location(s) where proposal can be viewed:

- 1) Approvals Branch, Ministry of Environment and Energy, 3rd Floor, 250 Davisville Ave., Toronto, Ontario, M4S 1H2
- 2) Windsor District Office, Ministry of Environment and Energy, 250 Windsor Ave., Windsor, Ontario N9A 6V9

Comment Period:

Written submissions may be made between March 7, 1995 and April 6, 1995

Contact:

Approvals Branch, Ministry of Environment and Energy
Information Officer
3rd Floor, 250 Davisville Ave., Toronto, Ontario, M4S 1H2
FAX 416-440-6973

All comments will be considered as part of the decision-making by the Ministry if they:

- (a) are submitted in writing;
- (b) reference both the *EBR* Registry number and the Ministry Instrument Reference; and
- (c) are received by the contact person within the specified comment period.

No acknowledgement or individual response will be provided to those who comment. ***Your comments & submissions received will be part of the public record.

Appendix D: Sample Application For An Investigation

Reprinted from The Environmental Bill of Rights, A Practical Guide with the permission of the authors, Paul Muldoon and Richard Lindgren and the publisher, Emond Montgomery Publications Ltd.

APPLICATION FOR AN INVESTIGATION

Section 74, *The Environmental Bill of Rights*,
Chapter 28, Statutes of Ontario, 1993

General Instructions

- 1 Please type or print clearly in ink.
- 2 Please indicate clearly to which section of the application any additional documentation applies.
- 3 Please ensure that your affidavit is attached and properly affirmed before a commissioner for taking affidavits in Ontario.
- 4 The application and supporting documentation should be submitted to:
The Environmental Commissioner
1075 Bay Street, Suite 605 Phone: (416) 325-3377
6th Floor Fax: (416) 325-3370
Toronto, Ontario M5S 2B1
- 5 It is suggested that the Applicants retain a copy of the application.
- 6 Please refer to "Instructions for Completing an Application" before you start filling out this application form.

Personal Information

This form provides the information necessary to request an investigation into whether a prescribed Act, regulation or instrument has been contravened. The Minister will use the information contained on this form to determine whether to conduct an investigation. The *Environmental Bill of Rights (EBR)* requires two applicants, who are residents of Ontario, to request an investigation. The *Freedom of Information and Protection of Privacy Act* protects the personal information provided by the applicant however applicants' personal information may be disclosed if the investigation results in: an administrative action; court action; or other legal action. In such a case, one or both of the applicants may be required to provide evidence and their names may be released.

Other Information

It is important to include as much supporting information and documentation as possible with your application. Please refer to the Instructions for Completing an Application on the last pages and attach all additional information. All the information requested on this form is required by the *EBR* before an investigation may be initiated.

The *EBR* also stipulates that each applicant must make a sworn statement that he or she believes that the facts alleged in the application are true.

Applicant's Information

1. Applicant Number 1

Surname *DOE*
Given Name(s) *JOHN*
Date of Birth *OCTOBER 6, 1960*
Address *99 ANYWHERE STREET, APT 300*
City *KINGSTON*
Province *ONTARIO*
Postal Code *K7L 1A1*
Residence Telephone *(000) 000-0000*
Business Telephone *(000) 000-0000*
Driver's License No. *00000000*
-OR-
Other Proof of Ontario Residency

.....
Signature

.....
Date

Note: Where an application is being made on behalf of a corporation, you must provide the proper legal name of the corporation plus a Statutory Declaration by a duly constituted officer stating that the corporation is incorporated under the laws of the Province of Ontario and has its principal place of business in Ontario.

Applicant's Information

1. (a) Applicant Number 2

Surname *DOE*
Given Name(s) *JANE*

Date of Birth *NOVEMBER 2, 1962*
 Address *99 ANYWHERE STREET, APT 300*
 City *KINGSTON*
 Province *ONTARIO*
 Postal Code *K7L 1A1*
 Residence Telephone *(000) 000-0000*
 Business Telephone *(000) 000-0000*
 Driver's License No. *00000000*
 -OR-
 Other Proof of Ontario Residency

.....
 Signature

.....
 Date

2. Name and Address of Suspected Violator(s) — Company and/or Individuals (If more than one, attach additional pages — refer to Instructions for Completing an Application at the end of this form)

Company's/Individual's Name *BLACKACRE LANDFILL LIMITED /*
 *JOSEPH HAROLD BLACKACRE*
 Address *123 ANYWHERE STREET, APT 300*
 City *KINGSTON*
 Province *ONTARIO*
 Postal Code *K7L 1Z1*
 Telephone Numbers *(000) 000-0000*

If a company is the suspected violator, are you an employee of that Company?

Applicant No 1: ~~Yes~~/No

Applicant No 2: ~~Yes~~/No

3. Briefly summarize the nature of the alleged offence(s):

The applicants believe that the suspected violators have:

- 1. Failed to comply with a Director's Order issued against them on May 1, 1994;*
- 2. Discharged or caused or permitted the discharge of a contaminant into the*
natural environment that causes or is likely to cause an adverse effect; and
- 3. Discharged or caused or permitted the discharge of material into Pike Creek*
that may impair the quality of the water of Pike Creek.

3. (b) Explain why the alleged offence(s) is serious enough to warrant an investigation.

- 1. The suspected violators are committing a continuing contravention of the Director's Order, Environmental Protection Act (EPA), and Ontario Water Resources Act (OWRA).*
- 2. This continuing contravention involves the direct and deliberate discharge of leachate from the Blackacre Landfill site into Pike Creek and the natural environment. Leachate has also been permitted to drain or seep into Pike Creek.*
- 3. This continuing contravention has caused, or is likely to cause, significant harm to public resources of Ontario, including Pike Creek and the fisheries, wildlife and plant life therein. It is not in the public interest to permit these discharges and harm to continue.*

3. (c) Explain the potential harm to the environment of the alleged contravention.

The contravention has caused, and continues to cause, the following environmental harm:

- 1. Degradation or contamination of the water quality of Pike Creek;*
- 2. Degradation or contamination of the creek bed, aquatic organisms, fish and wildlife species within Pike Creek;*
- 3. Degradation or contamination of fish habitat, including injury or damage to aquatic plant life, within Pike Creek; and*
- 4. Degradation or contamination of the ecological functions of Pike Creek.*

4. Indicate the name of the Act(s) and if known, the section number of that Act that the suspected violation contravenes:

EPA, s. 14 and s. 186

OWRA, s. 30 and s. 107

5. Summarize the evidence supporting the allegation.

- 1. On-site observations and site inspection reports from MOEE officers from 1989 to 1993 documenting numerous examples of leachate runoff and seepages towards and into Pike Creek.*

2. Memoranda from 1989 to the present time from MOEE hydrogeologists confirming the existence of groundwater and surface water contamination from the originating landfill site;

3. Director's Order dated May 1, 1994, and accompanying correspondence and reports, requiring the suspected violators to immediately take steps to properly control leachate at the site;

4. Personal observations and photographs by the applicants, who have witnessed the suspected violators operating a pump to discharge leachate directly into Pike Creek in the afternoons of August 16, 17 and 23, 1994. The applicants have also observed and photographed significant harm to Pike Creek and the organisms and wildlife therein resulting from the discharge of leachate. This harm includes: shoreline erosion; sediment deposits; discoloured water; and significant amounts of dead or dying aquatic plant life.

5. (a) Describe any document or other material you believe should be considered in the investigation.

1. MOEE reports, memoranda, laboratory analyses, correspondence and Director's Order, as described above.

2. Photographs by the applicants, as described above.

5. (b) Attach a copy of any document referred to in 5. (a) where it is reasonable to do so.

All relevant documents are appended to this application.

6. Are there any additional witness(s)? Yes/~~No~~

If yes, list the witness(s), including their names and addresses, and indicate the evidence that the witness(s) can provide.

1. Paul Jones — Hydrogeologist — MOEE Southeastern Regional Office— has inspected the site and can confirm nature and extent of groundwater and surface water contamination originating from the landfill site.

2. Sarah Nova—Abatement Officer— MOEE Southeastern Regional Office— has inspected the site and can confirm leachate runoff, leachate seepages, and can confirm non-compliance with Director's Order.

7. **Have you previously contacted any Ministry or the Office of the Environmental Commissioner regarding this alleged contravention? If so, please give details.**

On August 24, 1994, the applicants contacted Mr. George Smith, abatement officer with the MOEE, by telephone (000-0000) to complain about the continuing discharge of leachate into Pike Creek. Mr. Smith advised the applicants that he would look into the matter. Since this telephone conversation, the applicants have not received any follow-up information from Mr. Smith or the MOEE as to what action, if any, the MOEE would take to ensure compliance with the Director's Order, EPA or OWRA.

For Environmental Commissioner Of Ontario Use Only

Date Received:

Ministry Submitted to:

Date Submitted to the Ministry:

Reference Number:

Ministry Office Use Only

Date Received:

Date Acknowledgement letter sent to Applicant:

Reference Number:

Instructions For Completing An Application For Investigation

(The number on the left side corresponds to the section on the application)

1. Please ensure that you provide all the information requested in this section including your full name and second name (if any).
2. Please ensure that you provide all the information requested in this section. If there is more than one suspected violator, please fill out a separate sheet of paper for each violator with all the information requested in this section. Please reference each additional sheet with this section number.
3. On the application form, provide a summary of the nature of the alleged offence(s). A concise statement of the alleged offence(s) is all that is required

for the first part of this section. As an example, the section may read — an illegal discharge into the air or water, operation of equipment without proper approvals, illegal dumping of waste materials, violation of an existing order or approval, etc.

The second part of this section requires that a detailed description of the alleged offence be provided. This is to be done as an attachment to the application. At a minimum, the description must include the following:

- (a) An explanation of what the offence is and what gives you reasonable and probable grounds to believe that an offence against an environmental Act listed in the *Environmental Bill of Rights* has been committed.
 - (b) Details of why you believe that the company(s) and/or individual(s) noted in section 2, are responsible for the offence, such as eye witnesses, instructions by supervisors, etc. You may cross-reference these details with evidence you are providing in section 5.
 - (c) Date and time of offence. If unknown, approximate the date of the offence.
 - (d) Date you first became aware of the incident(s).
 - (e) How you became aware of the incident(s).
 - (f) Any other information that you think is relevant.
4. State the Act and if known, the section number, that the offence is under. Please note that the Act must be prescribed under the *Environmental Bill of Rights* and Ontario Regulation 73/94. All other applications for requests for investigations will not be considered. **Please see attached list of prescribed Acts.**
5. On the application form, provide a summary of the evidence to the allegation noted in section 3, and list all of the evidence that you have. As an example, the section may read “Photographs were taken of illegal discharges into the Belle Creek, samples were taken of the discharge and there were 3 witnesses that saw the discharge.”

The second part of section 5 requires details and copies of the evidence. As such, copies of such items as photographs, sample results, documentation or other written material that you may have that may be relevant to the investigation and that supports the allegation is to be properly referenced and attached to the application.

Please note that if the application is forwarded on for further investigation, all of the evidence will have to be released to the Ministry investigators and a receipt for this documentation will be given to the applicants. If any of the evidence was not legally obtained, the investigators must be advised immediately.

6. If there is a witness(s), please prepare an attachment that provides the

following information for each witness:

- (a) Name and address of the witness.
 - (b) A summary of the evidence that the witness might give.
 - (c) The extent to which this information is available to the applicant.
 - (d) If the evidence of the witness is not available, state the reason why.
7. If you have previously contacted any Ministry or the Environmental Commissioner, please prepare an attachment that provides the following information:
- (a) The name, address and telephone number of the office contacted. If available, the name and telephone number of the person contacted should be provided.
 - (b) Details of the reason for contacting (a).
 - (c) The outcome of the contact with (a).

After the application has been completed, the applicants must bring the application before a Judge, Justice of the Peace, Commissioner of Oaths, or similar, and have the application sworn or affirmed to before it is forwarded to the Environmental Commissioner. An affidavit form has been provided for your convenience.

**ACTS PRESCRIBED FOR INVESTIGATION
BY THE ENVIRONMENTAL BILL OF RIGHTS
AND ONTARIO REGULATION 73/94 FOR AUGUST 15, 1994**

ENERGY EFFICIENCY ACT

ENVIRONMENTAL ASSESSMENT ACT

ENVIRONMENTAL PROTECTION ACT

ONTARIO WATER RESOURCES ACT

PESTICIDES ACT

WASTE MANAGEMENT ACT

Sample Affidavits

John Doe's Affidavit

CANADA
Province of Ontario

IN THE MATTER OF
Section 74 of the
*Environmental Bill
of Rights*, S.O.
1993, c.28

TO WIT:

I, JOHN DOE

of the Township of Kingston in the County of Frontenac

SOLEMNLY DECLARE THAT the attached documentation and
statements are true to the best of my knowledge.

AND I make this solemn Declaration conscientiously believing it to be
true, and knowing that it is of the same force and effect as if made under oath.

DECLARED before me at the City of Kingston
in the County of Frontenac

this 15th day of September 1994.

JOHN DOE

A Commissioner, etc.

Sample Affidavits Continued

Dated *September 15* 1995

IN THE MATTER OF

*Section 74 of the
Environmental Bill of Rights
S.O. 1993, c. 28*

STATUTORY DECLARATION
of

John Doe

Sample Affidavits Continued

Jane Doe's Affidavit

CANADA
Province of Ontario

IN THE MATTER OF
Section 74 of the
*Environmental Bill
of Rights*, S.O.
1993, c.28

TO WIT:

I, JANE DOE

of the Township of Kingston in the County of Frontenac

SOLEMNLY DECLARE THAT the attached documentation and
statements are true to the best of my knowledge.

AND I make this solemn Declaration conscientiously believing it to be
true, and knowing that it is of the same force and effect as if made under oath.

DECLARED before me at the City of Kingston
in the County of Frontenac

this 15th day of September 1994.

JANE DOE

A Commissioner, etc.

Sample Affidavits Continued

Dated *September 15* 1995

IN THE MATTER OF

*Section 74 of the
Environmental Bill of Rights
S.O. 1993, c. 28*

STATUTORY DECLARATION
of

Jane Doe

Appendix E: Sample Application For A Review

Reprinted from The Environmental Bill of Rights, A Practical Guide with the permission of the authors, Paul Muldoon and Richard Lindgren and the publisher, Emond Montgomery Publications Ltd.

APPLICATION FOR A REVIEW

Section 61, *The Environmental Bill of Rights*,
Chapter 28, Statutes of Ontario, 1993

General Instructions

1. Please type or print clearly in ink.
2. The application and supporting documentation should be submitted to:
The Environmental Commissioner
1075 Bay Street, Suite 605
6th Floor
Toronto, Ontario M5S 2B1
Phone (416) 325-3377
Fax: (416) 325-3370
3. It is suggested that the Applicants retain a copy of the application.

Personal Information

This form provides the information which is necessary to request a review to determine whether an existing policy, Act, regulation or instrument of Ontario should be amended, repealed or revoked in order to protect the environment, or to request a review of the need for a new policy, Act or regulation. The Minister will use the information contained on this form to determine whether to conduct a review. The *Environmental Bill of Rights (EBR)* requires two applicants, who are residents of Ontario, to request a review. The *Freedom of Information and Protection of Privacy Act* protects the personal information provided by the applicants; however applicants' personal information may be disclosed if the review results in: an administrative action; a court action; or other legal action. In such a case, one or both of the applicants may be required to provide evidence and

their names may be released.

Other Information

It is important to include as much supporting information and documentation as possible with your application. Please refer to Sections 67 and 68 of the *EBR*, set out at the end of this form, in completing this application. All the information requested on this form is required by the *EBR* for the Minister to decide if a review is to be initiated.

Applicant's Information

1. Applicant Number 1

Surname *DOE*
Given Name(s) *JOHN*
Date of Birth *OCTOBER 6, 1960*
Address *99 ANYWHERE STREET, APT 300*
City *KINGSTON*
Province *ONTARIO*
Postal Code *K7L 1A1*
Residence Telephone *(000) 000-0000*
Business Telephone *(000) 000-0000*
Driver's License No. *00000000*
-OR-
Other Proof of Ontario Residency

.....
Signature

.....
Date

Note: Where an application is being made on behalf of a corporation, you must provide the proper legal name of the corporation plus a Statutory Declaration by a duly constituted officer stating that the corporation is incorporated under the laws of the Province of Ontario and has its principal place of business in Ontario.

Applicant's Information

1. (a) Applicant Number 2

Surname *DOE*
Given Name(s) *JANE*
Date of Birth *NOVEMBER 2, 1962*
Address *99 ANYWHERE STREET, APT 300*

City *KINGSTON*
Province *ONTARIO*
Postal Code *K7L 1A1*
Residence Telephone *(000) 000-0000*
Business Telephone *(000) 000-0000*
Driver's License No. *00000000*
-OR-
Other Proof of Ontario Residency

.....
Signature
.....
Date

2. (a) Clearly identify the existing policy, Act, regulation or instrument for which a review is sought.

Provisional Certificate of Approval for a Waste Disposal Site No. 0000, issued by Ministry of Environment and Energy (MOEE) to Blackacre Landfill Limited on July 4, 1982.

2. (b) Clearly identify the new Act, policy or regulation which you believe should be made or passed and why there is a need for the new Act, policy or regulation.

N/A

3. Explain why you believe that a review should be undertaken in order to protect the environment.

The current Provisional Certificate of Approval for the Blackacre Landfill Site is inadequate to protect the environment because:

1. The certificate does not require an impermeable liner or engineered leachate collection system at the landfill site.

2. The certificate does not require the landfill owner and operator to monitor or characterize the leachate generated at the site, nor does it require the landfill owner or operator to take steps to improve the quality of the leachate or reduce the quantity of leachate.

3. *The present method of collecting and re-circulating leachate at the landfill without off-site treatment and disposal has resulted in groundwater contamination, surface water contamination and discharges of leachate to Pike Creek and the natural environment. The discharges of leachate have caused significant harm to Pike Creek and the life therein, and it is not in the public interest to permit these discharges and harm to continue.*
4. *The certificate should be amended to expressly require the landfill owner and operator to immediately design and implement an appropriate leachate collection and management system at the landfill site.*
5. *Such further or other reasons as the applicants may provide in support of this application for review.*

4. Summarize the evidence supporting your belief that the review applied for should be undertaken in order to protect the environment.

The following evidence supports the need to review and revise the current Provisional Certificate of Approval for the Blackacre Landfill Site:

1. *MOEE site inspection reports and laboratory analyses from 1989 to 1993 which document numerous examples of leachate-contaminated surface water runoff from the landfill site into Pike Creek. Leachate seepages draining from the eastern slope of the landfill towards and into Pike Creek have also been confirmed by MOEE staff.*
2. *Memoranda from 1991 to the present time by MOEE hydrogeologists who confirmed the existence of groundwater and surface water contamination originating from the landfill site. The MOEE hydrogeologists also concluded that the landfill owner and operator should develop and implement an acceptable long-term plan for the collection, treatment and disposal of leachate generated at the landfill site.*

Appendix F: Acts For Review And Investigation

Acts for Review

<i>Aggregate Resources Act</i>	April 1, 1996
<i>Conservation Authorities Act</i>	April 1, 1996
<i>Crown Timber Act</i>	April 1, 1996
<i>Endangered Species Act</i>	April 1, 1996
<i>Energy Efficiency Act</i>	November 15, 1994
<i>Environmental Assessment Act</i>	November 15, 1994
<i>Environmental Bill of Rights, 1993</i>	November 15, 1994
<i>Environmental Protection Act</i>	November 15, 1994
<i>Gasoline Handling Act</i>	April 1, 1996
<i>Lakes and Rivers Improvement Act</i>	April 1, 1996
<i>Mining Act</i>	April 1, 1996
<i>Niagara Escarpment Planning and Development Act</i>	November 15, 1994
<i>Ontario Waste Management Corporation Act</i>	November 15, 1994
<i>Ontario Water Resources Act</i>	November 15, 1994
<i>Pesticides Act</i>	November 15, 1994
<i>Petroleum Resources Act</i>	April 1, 1996
<i>Planning Act</i>	April 1, 1996
<i>Provincial Parks Act</i>	April 1, 1996
<i>Public Lands Act</i>	April 1, 1996
<i>Waste Management Act, 1992</i>	November 15, 1994

Acts For Investigation

<i>Aggregate Resources Act</i>	April 1, 1996
<i>Conservation Authorities Act</i>	April 1, 1996
<i>Crown Timber Act</i>	April 1, 1996
<i>Endangered Species Act</i>	April 1, 1996
<i>Energy Efficiency Act</i>	August 15, 1994
<i>Environmental Assessment Act</i>	August 15, 1994
<i>Environmental Protection Act</i>	August 15, 1994
<i>Fisheries Act (Federal)</i>	April 1, 1996
<i>Game and Fish Act</i>	April 1, 1996
<i>Gasoline Handling Act</i>	April 1, 1996
<i>Lakes and Rivers Improvement Act</i>	April 1, 1996
<i>Mining Act</i>	April 1, 1996
<i>Ontario Water Resources Act</i>	August 15, 1994
<i>Pesticides Act</i>	August 15, 1994
<i>Petroleum Resources Act</i>	April 1, 1996
<i>Provincial Parks Act</i>	April 1, 1996
<i>Public Lands Act</i>	April 1, 1996
<i>Waste Management Act, 1992</i>	August 15, 1994

ONTARIO'S ENVIRONMENTAL BILL OF RIGHTS AND YOU

Produced by:

Environmental Commissioner of Ontario
1075 Bay Street, Suite 605
Toronto, ON, M5S 2B1
Phone: (416) 325-3377
Toll Free: 1-800-701-6454
Fax: (416) 325-3370

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Cette publication est aussi disponible en français.



Other Resources:

Ontario's *Environment Bill of Rights* User's Guide: Produced by Pollution Probe and the Ministry of Environment and Energy.



E C O



C E O

E N V I R O N M E N T A L C O M M I S S I O N E R O F O N T A R I O

